M.U. and FEDERATION REPORTS.

GAN KEE BENG AND ANOTHER v. PUBLIC PROSECUTOR.

[App. Crim. Juris. (Pretheroe, J.) September 3, 1947]
[Malacca — Cr. App. No. 17 of 1947]

Price Control Ordinance, 1946, Ss. 6 and 9 (i) (a) — Chinese "Chop" — Transfer of Powers and Interpretation Ordinance, 1946, Ss. 13 and 14.

It was contended in this case that the licence issued under Section 6 of the Price Control Ordinance, 1946, was in the name of "Chop Lian Chong" and not in the names of the appellants.

Held, that a licence in the name of a Chinese "Chop" is a licence of the partners in the firm for the purpose of S. 6 of the Price Control Ordinance, 1946, and is sufficient to found a charge under S. 9 (i) (a) of the Ordinance.

CRIMINAL APPEAL.

D. S. Marshall for the Appellants.

Kilner (D. P. P.) for the Respondent.

Pretheroe, J. : — The first appellant was charged as the managing director of Chop Lian Chong and the second appellant was charged as a director of the same firm. The charge was that, being persons licensed under section 6 of the Price Control Ordinance, 1946, and having sugar in their possession, they falsely denied such possession. The learned District Court Judge convicted both appellants and fined each of them $350 or three months simple imprisonment in default of payment. He also ordered that the sugar exhibited in the case be forfeited. Each appellant has appealed against both his conviction and sentence.

Mr. Marshall appeared for both appellants and based his arguments on two main grounds viz :—

(a) That in fact the appellants were not licensed under section 6 of the Price Control Ordinance, 1946, and therefore could not contravene section 9 (1) (a) of the same Ordinance; and

(b) That evidence was wrongly admitted at the trial which vitiated the whole proceedings.

The licence issued under section 6 of the Ordinance was in the name of "Chop Lian Chong" and not in the names of the appellants. Mr. Marshall argued that, as section 14 of the Transfer of Powers and Interpretation Ordinance, 1946, did not apply Part I of the Interpretation Ordinance of the Straits Settlements to the interpretation of the Malayan Union Ordinances, the expression "person" was not defined in our Laws and therefore did not include a corporation or firm. This submission was however based on an error for the definition of, *inter alia,* the expression "person" in Part I of the Interpretation Ordinance of the Straits Settlements is specifically applied to the interpretation of the Malayan Union Ordinances by the last paragraph of section 13 of the Transfer of Powers and Interpretation Ordinance, 1946. By virtue of that definition the expression person "includes any body of persons corporate or unincorporate" so that the first ground of appeal fails.

The second ground of appeal was that the second witness for the prosecution gave evidence relating to a refusal by the appellants to sell him sugar earlier on the same day which was not the subject matter of the charge. Such evidence was admitted by the learned Judge and it showed that that witness, after having unsuccessfully demanded sugar from the appellants, left their shop and within 20 yards met some Price Control Inspectors and immediately reported the fact to them. As a result of this report the Inspectors immediately entered appellants' shop and demanded sugar. This evidence was admissible under secions 7, 9 and 11 (2) of the Evidence Ordinance. I decide therefore that the appeals against the convictions fail.

At the time the appellants denied they had any sugar there were five bags of light brown sugar within their shop premises. It is clear therefore that the offence was deliberate and calculated. The Ordinance itself indicates clearly the view of the Legislature regarding the gravity of any evasion of its provisions by prescribing a maximum penalty for a first offence of a fine of $10,000 and two years imprisonment. In my opinion the penalty imposed by the learned District Judge was certainly neither harsh nor unconscionable and it is certainly not disproportionate to the penalties imposed in other Courts in comparable circumstances. Both appeals therefore fail on all grounds and are dismissed.

Appeal Dismissed.

LIM CHEE LAN v. PUBLIC PROSECUTOR.

[App. Crim. Juris. (Willan, C.J.) October 24, 1947]
[Kuala Lumpur Dt. Ct. Cr. App. No. 54 of 1947]

Criminal Procedure Code, Ss. 2, 166 and 276 — Penal Code, Ss. 40, 72, 116 and 161 — Alternative charge under the Penal Code and under other Enactments — F.M.S. Prevention of Corruption Enactment, 1938, S. 3 (b) — Police officer investigating one offence sees another committed — Statement made in respect of second offence is a "police report" not a statement during course of investigation.